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14 NE OPCO, INC. (erroneously sued as The
15 Gores Group, LLC

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

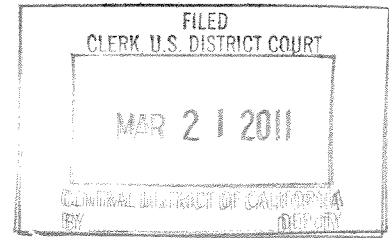
18 YOLANDA DEVORA, an
19 individual,

20 Plaintiff,

21 v.

22 THE GORES GROUP, LLC, a
23 Limited Liability Company;
24 NATIONAL ENVELOPE
25 CORPORATION-WEST, a
26 California corporation and DOES 1
27 to 20, inclusive,

28 Defendants.



Case No. CV11-02382 6W (CW)

NOTICE OF REMOVAL

[28 U.S.C. §§ 1441 AND 1446]

Action Filed: February 16, 2011

**TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL
DISTRICT OF CALIFORNIA AND TO PLAINTIFF AND HER COUNSEL
OF RECORD:**

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1441 and 1446, defendant NE Opco, Inc. (erroneously sued as “The Gores Group, LLC”) (“Defendant”) hereby removes the above-captioned action from the Superior Court of the State of California in and for the County of Los Angeles to the United States District Court for the Central District of California. In support of this removal, Defendant states the following:

1. On February 16, 2011, Plaintiff Yolanda Devora (“Plaintiff”) filed an unverified complaint in the Superior Court of the State of California in and for the County of Los Angeles, Central District Branch, entitled *Yolanda Devora v. The Gores Group, LLC, et al.*, Case No. BC 454939 (the “Complaint”). The Complaint is attached hereto as Exhibit 1.

2. Plaintiff alleges that she was employed at National Envelope Corporation’s manufacturing facility in the City of Industry, California, from 1996 through November 4, 2010, when her employment allegedly was terminated for unlawful reasons. Plaintiff’s Complaint asserts the following causes of action arising from her termination: (1) disability discrimination, (2) failure to provide reasonable accommodation, (3) failure to engage in the interactive process, (4) violation of the California Family Rights Act, (5) retaliation, (6) failure to prevent harassment, discrimination, and retaliation, and (7) failure to provide accurate itemized statements. Compl., ¶¶ 14-63.

I. TIMELY REMOVAL

3. NE Opco, Inc.’s removal petition is timely filed within 30 days of service of the Summons and Complaint. Plaintiff personally served the incorrect entity – The Gores Group, LLC (“Gores Group”), who was not and would not have

1 been Plaintiff's employer – on February 17, 2011. The other Defendant has not
2 been served.

3 4. Because this Notice of Removal is filed within thirty days of service of
4 the Summons and Complaint, it is timely under 28 U.S.C. §§ 1446(b) and 1453.

5 **II. DIVERSITY JURISDICTION EXISTS**

6 5. This action is one over which this Court has original jurisdiction under
7 28 U.S.C. § 1332(a) and is one which may be removed by NE Opco, Inc. pursuant
8 to 28 U.S.C. § 1441. This is a civil action that is between citizens of different states
9 and where Plaintiff appears more than likely to claim an amount in controversy that
10 exceeds \$75,000, exclusive of interest and costs.

11 **A. Complete Diversity of Citizenship Exists**

12 6. Complete diversity exists under 28 U.S.C. § 1332 between Plaintiff
13 and Defendant because Plaintiff and Defendant are citizens of different states.
14 Further, in compliance with 28 U.S.C. § 1441(b), “none of the parties in interest
15 properly joined and served as defendants is a citizen of the State in which [this]
16 action is brought.”

17 7. At the time Plaintiff filed this civil action, Plaintiff was a California
18 citizen. Compl., ¶ 2.

19 8. Pursuant to 28 U.S.C. § 1332(c)(1), a corporation is deemed to be a
20 citizen of any state in which it has been incorporated and of any state where it has
21 its principal place of business.

22 9. For diversity purposes, a corporation is a citizen of the state in which it
23 is incorporated and the state that constitutes its principal place of business. 28
24 U.S.C. § 1332(c)(1). The “principal place of business” for the purpose of
25 determining diversity subject matter jurisdiction under 28 U.S.C. § 1332 refers “to
26 the place where a corporation's officers direct, control, and coordinate the
27 corporation's activities [I]n practice it should normally be the place where the
28 corporation maintains its headquarters-provided that the headquarters is the actual

1 center of direction, control, and coordination, i.e., the ‘nerve center,’ and not simply
 2 an office where the corporation holds its board meetings[.]” *See Hertz Corp. v.*
 3 *Friend*, 130 S.Ct. 1181, 1192 (2010).

4 10. In September, 2010, NEV Holdings, LLC, an indirect subsidiary of
 5 The Gores Group and the parent company of NE Opco, Inc., acquired substantially
 6 all of the assets of National Envelope Corporation, its parent company NEC
 7 Holdings Corp. and their respective subsidiaries, which were at the time and still
 8 are in bankruptcy. Following that acquisition, the employees who had worked at
 9 National Envelope were offered positions with NE Opco, Inc. At the time, Plaintiff
 10 was on a leave of absence from National Envelope. Had Plaintiff accepted the
 11 position offered, Plaintiff would have become an employee of NE Opco, Inc.
 12 Plaintiff is not, has never been, and would never have been, an employee of the
 13 Gores Group by virtue of its indirect subsidiary’s acquisition of the assets of
 14 National Envelope. Declaration of James Shelby Marlow, ¶ 2.

15 11. NE Opco, Inc. is, and was at the time of the institution of this civil
 16 action, a corporation formed under the laws of the State of Delaware and has its
 17 headquarters and its principal place of business in the State of Texas. Declaration
 18 of James Shelby Marlow, ¶ 3.

19 12. NE Opco, Inc.’s corporate headquarters is located at 3211 Internet
 20 Boulevard, Suite 200, Frisco, Texas 75034, and this is where the day-to-day
 21 management of the business is exercised. NE Opco, Inc.’s senior management is
 22 primarily located in Frisco, Texas. For example, all of the following NE Opco, Inc.
 23 director level and above positions are performed by people who work in Frisco,
 24 Texas: VP Financial Plan & Analysis; Sr. Director, Sales Operations; VP,
 25 Consumer Sales; Regional General Manager; EVP, Operations; VP, Human
 26 Resources; VP, Marketing; VP, Pricing & Bus. Development; Director, HR-
 27 Benefits; Regional Controller; Operations Controller; VP, Corporate Accounts;
 28 Corporate Controller; VP Wholesale Distribution; CFO; VP, Customer Service;

1 Director, Corporate Purchasing; VP of Information Technology; VP, Strategy
 2 Sourcing & Logistics; VP, Specialty Product; and VP, General Counsel &
 3 Secretary. In addition, NE Opco, Inc. is in the process of hiring a new CEO who
 4 will also be based in Texas. Moreover, the majority of the Company's contracts are
 5 negotiated from, and signed in, Frisco, Texas. NE Opco, Inc. also has two
 6 additional Regional General Managers (one in Ennis, Texas and another in
 7 Westfield, Massachusetts). Declaration of James Shelby Marlow, ¶ 4.

8 13. Based on the aforementioned facts, NE Opco, Inc. is, therefore, a
 9 citizen of the State of Delaware and the State of Texas for purposes of determining
 10 diversity jurisdiction. 28 U.S.C. § 1332(c)(1).

11 14. In addition, the joinder of The Gores Group and National Envelope
 12 Corporation-West is fraudulent (i.e., they are "sham defendants") such that their
 13 presence could not destroy diversity jurisdiction regardless of their citizenship. *See*
 14 *McCabe v. General Foods Corp.*, 811 F. 2d 1336, 1339 (9th Cir. 1987). Many
 15 courts have compared the fraudulent joinder standard to the standard for judging a
 16 motion to dismiss under Fed. R. Civ. P. 12(b)(6). *See, e.g., TPS Utilicom Serv.,*
 17 *Inc. v. AT&T Corp.*, 223 F. Supp. 2d 1089, 1102 (C.D. Cal. 2002) (the "test for
 18 fraudulent joinder resembles a Rule 12(b)(6) analysis"); *Archuleta v. American*
 19 *Airlines, Inc.*, 2000 WL 656808, at *11 (C.D. Cal. May 12, 2000) (the fraudulent
 20 joinder standard "is similar to that employed in deciding motions to dismiss under
 21 Rule 12(b)(6)").¹ First, as noted above, The Gores Group is not, was not, and
 22 would not have become Plaintiff's employer, and Plaintiff sets forth no allegations

23 ¹ *See also Int'l Ins. Co. v. Red & White Co.*, 1994 WL 706361, at *5 (N.D. Cal.
 24 Dec. 14, 1994) ("a court engaging in a fraudulent joinder analysis performs a nearly
 25 identical function to one ruling on a motion to dismiss under Federal Rule of Civil
 26 Procedure 12(b)(6)"); *Knutson v. Allis-Chalmers Corp.*, 358 F. Supp. 983, 995 (D.
 27 Nev. 2005) (the fraudulent joinder standard is similar to the 12(b)(6) except that
 28 courts will not determine unsettled questions of state law).

1 that could establish a theory of liability against this company. *See, e.g. Jernigan v.*
 2 *Ashland Oil Inc., et al.*, 989 F. 2d 812, 817 (5th Cir. 1993) (other named
 3 corporations that were not statutory employer were improperly joined and, thus,
 4 their citizenship was disregarded for purposes of determining diversity
 5 jurisdiction); *Frank v. U.S. West, Inc.*, 3 F.3d 1357, 1362 (10th Cir. 1993). Second,
 6 NEC Holding Corporation (on behalf of itself and 28 affiliated entities, including
 7 National Envelope Corporation) filed for bankruptcy protection on June 10, 2010,
 8 and an automatic stay was issued pursuant to 11 U.S.C. § 362(a). *See* Request for
 9 Judicial Notice, Ex. A. Plaintiff, thus, cannot state a cause of action against these
 10 entities.

11 15. Under 28 U.S.C. § 1441(a) the citizenship of defendants sued under
 12 fictitious names shall be disregarded. The inclusion of "Doe" defendants in
 13 Plaintiff's state court complaint has no effect on removability. *Newcombe v. Adolf*
 14 *Coors Co.*, 157 F.3d 686, 690-91 (9th Cir. 1998); 28 U.S.C. § 1441 (a) (stating that
 15 for purposes of removal, the citizenship of defendants sued under fictitious names
 16 shall be disregarded). In determining whether diversity of citizenship exists, only
 17 the named defendants are considered. *Id.*

18 16. Thus, complete diversity of citizenship exists.

19 **B. The Amount-In-Controversy Requirement Is Satisfied**

20 17. Removal is proper if, from the allegations of the Complaint and the
 21 Notice of Removal, it is more likely than not that the amount in controversy
 22 exceeds \$75,000. *Luckett v. Delta Airlines, Inc.*, 171 F. 3d 295, 298 (5th Cir.
 23 1999); *Sanchez v. Monumental Life Ins. Co.*, 102 F. 3d 398, 403-04 (9th Cir. 1996).

24 18. In determining whether the jurisdictional minimum is met, courts
 25 consider all recoverable damages, including emotional distress damages, punitive
 26 damages, statutory penalties, and attorneys' fees. *Hunt v. Washington State Apple*
 27 *Advertising Comm'n*, 432 U.S. 333, 347-48 (1977) (superseded by statute on other
 28

grounds); *Gibson v. Chrysler Corp.*, 261 F.3d 927, 945 (9th Cir. 2001); *Galt G/S v. JSS Scandinavia*, 142 F. 3d 1150, 1155-56 (9th Cir. 1998).

19. Plaintiff does not specifically quantify her damages. While NE Opco, Inc. denies any liability to Plaintiff, the amount in controversy is determined based on Plaintiff's allegations in the complaint.² Plaintiff's allegations demonstrate that the amount in controversy exceeds \$75,000.

20. Plaintiff alleges that she was unlawfully discriminated against and wrongfully terminated and seeks: (1) "lost employment earnings and benefits, past and future" (2) "emotional distress, physical and mental injuries and general damages"; (3) "punitive damages . . . in an amount appropriate to punish and make an example [of Defendants]"; (4) "attorney's fees and costs"; and (5) "[s]uch other and further relief as the Court may deem proper and proper." *See* Compl., ¶¶ 18-21, Prayer for Relief.

21. In addition to her claim for back and front pay, allegations relating to emotional distress and outrageous conduct as in the instant Complaint have been held sufficient to satisfy the amount in controversy requirement. *See Egan v. Premier Scales & Sys.*, 237 F. Supp. 2d 774, 776 (W.D. Ky. 2002) (where plaintiff sought damages for embarrassment, humiliation, and willful, malicious and outrageous conduct, the court held that the defendant could "easily make the case that the claims are more likely than not to reach the federal amount in controversy requirement").

² *See Korn v. Polo Ralph Lauren Corp.*, 536 F.Supp.2d 1199, 1205 (E.D. Cal. 2008) ("In measuring the amount in controversy, a court must assume that the allegations of the complaint are true and that a jury will return a verdict for the plaintiff on all claims made in the complaint. The ultimate inquiry is what amount is put 'in controversy' by the plaintiff's complaint, not what a defendant will actually owe.").

22. In employment actions, juries in California and elsewhere have returned verdicts with substantial awards for punitive and compensatory damages that far exceed \$75,000. *See Aucina v. Amoco Oil Co.*, 871 F. Supp. 332 (S.D. Iowa 1994) (“[b]ecause the purpose of punitive damages is to capture the defendant’s attention and deter others from similar conduct, it is apparent that the plaintiff’s claim for punitive damages alone might exceed [the jurisdictional amount]”); *Freund v. Nycomed Amersham*, 347 F. 3d 752, 756 (9th Cir. 2003) (jury verdict on wrongful termination in violation of public policy claim of \$1,150,000 in compensatory damages and \$1,150,000 in punitive damages); *Singer v. State Farm Mut. Auto. Ins. Co.*, 116 F. 3d 373, 376-377 (9th Cir. 1997) (holding that where a complaint does not allege a specific dollar amount, the case is removable if the removing defendant shows by a preponderance of the evidence that the jurisdictional amount is present); *see also Simmons v. PCR Tech.*, 209 F. Supp. 2d 1029, 1031-35 (N.D. Cal. 2002) (holding that Plaintiff’s damage claim, including lost wages, medical expenses, emotional distress and attorneys’ fees, was enough to put the amount in controversy above \$75,000).

III. CONSENT TO REMOVAL

23. As discussed above, the Gores Group and National Envelope Corporation-West have not been properly joined in this action and, therefore, need not consent to removal. *Emrich v. Touche Ross & Co.*, 846 F. 2d 1190, 1193 &n.1 (9th Cir. 1988) (consent not required by defendants who are “nominal, unknown or fraudulently joined”). In addition, National Envelope Corporation-West need not consent to removal because it has not been properly served. *Id.* (consent not required by defendants who have not been properly served in the action).

IV. THE OTHER PREREQUISITES FOR REMOVAL HAVE BEEN SATISFIED

24. On March 18, 2011, NE Opco, Inc. filed an Answer to Plaintiff’s unverified Complaint in state court, which is attached hereto as Exhibit 2.

1 25. The documents attached as Exhibits 1 and 2 constitute all the process,
2 pleadings, and orders filed in this action in the Superior Court of the State of
3 California in and for the County of Los Angeles of which NE Opco, Inc. is aware.

4 26. Venue is proper in this district, pursuant to 28 U.S.C. § 1441(a),
5 because it embraces the state court where the removed action has been pending.

6 27. NE Opco, Inc. promptly will serve Plaintiff with this Notice of
7 Removal and promptly will file a copy of this Notice of Removal with the clerk of
8 the state court in which the removed action has been pending, pursuant to 28 U.S.C.
9 § 1446(d).

10 28. If any question arises as to the propriety of the removal of this action,
11 NE Opco, Inc. requests the opportunity to present a brief and oral argument in
12 support of its position that this case was properly removed.

13 WHEREFORE, NE Opco, Inc. respectfully requests that this action be
14 removed from the Superior Court of the State of California in and for the County of
15 Los Angeles to the United States District Court for the Central District of
16 California, and that all future proceedings in this matter take place in the United
17 States District Court for the Central District of California.

18 Dated: March 21, 2011

MORGAN, LEWIS & BOCKIUS LLP

19
20 By Alexander Chemers
21 Alexander Chemers
22 Attorneys for Defendant
23 NE OPCO, INC.
24
25
26
27
28

EXHIBIT 1

91746
ALB37

Donald Potter (SBN 192735)
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FILED
Superior Court of California
County of Los Angeles

FEB 16 2011

John A. Clarke, Executive Officer/Clerk
By Gina Grider, Deputy

Attorneys for Plaintiff
YOLANDA DEVORA

Dr Kevin C. Brazile
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

YOLANDA DEVORA, an individual,

Plaintiff,

v.

THE GORES GROUP, LLC, a Limited Liability
Company; NATIONAL ENVELOPE
CORPORATION-WEST, a California
corporation and DOES 1 to 20, inclusive,

Defendants.

CASE NO.:

BC 454939

COMPLAINT FOR DAMAGES

1. Disability Discrimination in Violation of Cal. Gov. Code § 12940 (a)
2. Disability Discrimination in Violation of Cal. Gov. Code § 12940 (m) — Failure to Provide Reasonable Accommodation
3. Disability Discrimination in Violation of Cal. Gov. Code § 12940 (n) — Failure to Engage in the Interactive Process
4. California Family Rights Act Violation(s) (Gov. Code § 12945.2)
5. Retaliation in Violation of Cal. Gov. Code §§ 12940 (h) and 12945(l)
6. Failure to Prevent Harassment, Discrimination and Retaliation in Violation of Cal. Gov. Code § 12940 (k)
7. Failure to Provide Accurate Itemized Statements in Violation of Cal. Labor Code § 226(a)-(g)

[DEMAND FOR TRIAL BY JURY]

CIT/CASE: BC454939 LEA/DEFH:
RECEIPT #: CCH507417024
DATE PAID: 02/16/11 02:41:25 PM
PAYMENT: \$395.00
RECEIVED: 0310

LAW OFFICE OF DONALD POTTER
776 East Green Street, Suite 210
Pasadena, California 91101

1 COMES NOW, Plaintiff YOLANDA DEVORA ("Plaintiff"), and brings this action
 2 against Defendants THE GORES GROUP, LLC, a Limited Liability Company; NATIONAL
 3 ENVELOPE CORPORATION-WEST, a California corporation and DOES 1 to 20, (collectively
 4 referred to as "Defendants"), and each of them, and alleges on information and belief, except those
 5 allegations relating to Plaintiff herself, which is asserted on personal knowledge, as follows:

6 **PARTIES TO THE ACTION**

7 2. Plaintiff is a resident of the County of Los Angeles, State of California.

8 3. Defendant THE GORES GROUP, LLC, is a limited liability company organized under
 9 the laws of the State of Delaware. At all relevant times, THE GORES GROUP, LLC has operated
 10 a manufacturing facility in the City of Industry, California using the dba "National Envelope."

11 4. Defendant NATIONAL ENVELOPE CORPORATION-WEST is a corporation organized
 12 under the laws of the State of California. At all relevant times, NATIONAL ENVELOPE
 13 CORPORATION-WEST operated a manufacturing facility in the City of Industry, California using
 14 the dba "National Envelope."

15 5. The true names and capacities of Defendants DOES 1 to 20 are unknown to Plaintiff who
 16 will amend the complaint to allege such names and capacities as soon as they are ascertained. Each
 17 Defendant designated herein as DOE is in some manner legally responsible for the unlawful acts
 18 and damages alleged herein.

19 **GENERAL FACTUAL ALLEGATIONS**

20 6. Defendants and/or DOES 1-20, at all relevant times, employed Plaintiff at its
 21 manufacturing facility in the City of Industry, California. These defendants, and each of them at
 22 relevant times, were private companies employing more than fifty employees in California within
 23 seventy-five miles of Plaintiff's worksite and were, and are, covered employers under the
 24 California Fair Employment and Housing Act ("FEHA") and the California Family Rights Act
 25 ("CFRA").

26 7. Plaintiff was employed by Defendants and/or DOES 1-20, as a laborer at their
 27 manufacturing facility in the City of Industry from in or before 1996 until on or about November 4,
 28 2010 when her employment was involuntarily terminated for unlawful reasons.

LAW OFFICE OF DONALD POTTER
776 East Green Street, Suite 210
Pasadena, California 91101

8. During Plaintiff's employment with Defendants and/or DOES 1-20, including in 2010, Plaintiff suffered from a medical condition, Cancer, and physical disabilities including Bell's Palsy which affected one or more of the following body systems (neurologic, immunological, musculoskeletal, special sense organs, respiratory, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine) and limited Plaintiff's ability to participate in major life activities (collectively referred to herein as the "DISABILITIES"). As a result, Plaintiff required medical care and treatment for her DISABILITIES and she needed accommodation including, but not limited to, leave from work.

9. Defendants and/or DOES 1-20 and its managers, employees and agents, were informed by Plaintiff and her health care providers of Plaintiff's DISABILITIES, her need for medical care and treatment and that Plaintiff needed accommodation including, but not limited to, leave from work.

10. After learning of Plaintiff's DISABILITIES, her need for medical care and treatment, her need for accommodation and that Plaintiff needed time off from work, Defendants and/or DOES 1-20 and its managers, employees and agents, knowingly and willfully took adverse employment actions against Plaintiff due to her DISABILITIES, her need for accommodation, her need and use of CFRA leave, including, but not limited to, unwarranted criticism, scrutiny, reprimands discipline, failure/refusal to engage in the interactive process or provide reasonable accommodation(s), reduction of hours, changes to schedule and, ultimately, termination of her employment.

11. Although Plaintiff complained to Defendants and/or DOES 1-20 prior to her termination that she was being subjected to discrimination and/or retaliation due to her DISABILITIES, need for accommodation and/or her need and use of protected leave, they failed to take corrective action to remedy and prevent the discrimination, harassment and/or retaliation.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

12. Prior to commencing this civil action, and within the time provided by law, Plaintiff filed an administrative charge with the Department of Fair Employment and Housing ("DFEH") against the Defendants setting forth all FEHA-based claims alleged herein.

1 13. Prior to commencing this civil action, and within the time provided by law, Plaintiff
 2 requested, and received, a "Right-to-Sue" Letter from the DFEH and she served a copy of that letter
 3 and the DFEH charge on the Defendants in compliance with Government Code § 12965(b).

4 **FIRST CAUSE OF ACTION**

5 **Disability Discrimination in Violation of Cal. Gov. Code § 12940 (a)**

6 ***(Against All Defendants and/or DOES 1-20)***

7 14. Plaintiff hereby incorporates by reference and realleges all preceding paragraphs of this
 8 complaint as if fully set forth herein.

9 15. At all times herein mentioned, the FEHA, Government Code § 12940 et. seq., was in full
 10 force and effect and binding on Defendants. These statutes required Defendants to refrain from
 11 discriminating against any employee on the basis of a disability or medical condition.

12 16. During Plaintiff's employment with Defendants and/or DOES 1-20, Plaintiff had a
 13 physical and/or mental disabilities or medical conditions that were known to the Defendants
 14 including, but not limited to, Cancer and Bell's palsy. Plaintiff, however, was qualified and able to
 15 perform the essential functions of Plaintiff's position either with, or without, reasonable
 16 accommodations.

17 17. During Plaintiff's employment with Defendants and/or DOES 1-20, through their
 18 managers, supervisors, employees, human resources personnel and agents, discriminated against
 19 Plaintiff because of Plaintiff's disabilities by subjecting Plaintiff to adverse employment conditions
 20 including, but not limited to, unwarranted criticism, scrutiny, reprimands and discipline of Plaintiff,
 21 failing to engage in the interactive process, reduction of hours, demotion, failing to reinstate, failing
 22 to provide reasonable accommodation(s), and, ultimately, terminating Plaintiff's employment.

23 18. As a proximate result of said willful, knowing and intentional discrimination against
 24 Plaintiff, Plaintiff has lost employment earnings and benefits, past and future, according to proof.

25 19. As a proximate result of said discrimination, Plaintiff has suffered emotional distress,
 26 physical and mental injuries and general damages, past and future, in a sum according to proof.

27 20. As a proximate result of said discrimination, Plaintiff has incurred, and will continue to
 28 incur, attorney's fees and costs.

21. Defendants and/or DOES 1-20, and each of them, have committed the acts herein alleged maliciously and oppressively, with the wrongful intention of injuring Plaintiff, with an improper and intentional motive amounting to malice and in conscious disregard of Plaintiff's rights. Accordingly, Plaintiff requests the assessment of punitive damages against Defendants, in an amount appropriate to punish and make an example of them.

SECOND CAUSE OF ACTION

Disability Discrimination in Violation of Cal. Gov. Code § 12940 (m) —

Failure to Provide Reasonable Accommodation

(Against All Defendants and/or DOES 1-20)

22. Plaintiff hereby incorporates by reference and realleges all preceding paragraphs of the complaint as if fully set forth herein.

23. At all times herein mentioned, the FEHA, Government Code §12940(m), was in full force and effect and binding on Defendants and/or DOES 1-20. These statutes required these defendants to provide reasonable accommodation(s) that allow an employee suffering from a known physical or mental disability, to perform the essential functions of her or her job.

24. During Plaintiff's employment with Defendants and/or DOES 1-20, Plaintiff had FEHA-qualifying physical and/or mental disabilities or conditions that caused work restrictions that required accommodation including, but not limited to, Cancer and Bell 's palsy.

25. Defendants and/or DOES 1-20 were aware that Plaintiff had qualifying physical and/or mental disabilities or conditions under FEHA that caused work restrictions that required accommodation but they failed to provide reasonable accommodation(s).

26. As a proximate result of said willful, knowing and intentional discrimination against Plaintiff, Plaintiff has lost employment earnings and benefits, past and future, according to proof.

27. As a proximate result of said discrimination, Plaintiff has suffered emotional distress, physical and mental injuries and general damages, past and future, in a sum according to proof.

28. As a proximate result of said discrimination, Plaintiff has incurred, and will continue to incur, attorney's fees and costs.

29. Defendants and/or DOES 1-20, and each of them, have committed the acts herein alleged maliciously and oppressively, with the wrongful intention of injuring Plaintiff, with an improper and intentional motive amounting to malice and in conscious disregard of Plaintiff's rights. Accordingly, Plaintiff requests the assessment of punitive damages against Defendants, in an amount appropriate to punish and make an example of them.

THIRD CAUSE OF ACTION

Disability Discrimination in Violation of Cal. Gov. Code § 12940 (n) —

Failure to Engage in the Interactive Process

(Against All Defendants and/or DOES 1-20)

30. Plaintiff hereby incorporates by reference and realleges all preceding paragraphs of the complaint as if fully set forth herein.

31. At all times herein mentioned, the FEHA, Government Code §12940(n), was in full force and effect and binding on Defendants and/or DOES 1-20. These statutes required these defendants to engage in an interactive process in assessing an employee's physical or mental disabilities in order to provide a reasonable accommodation. Government Code §12940(n) makes it an unlawful employment practice for an employer to fail to engage in a timely, good faith, interactive process with the employee to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee with a known physical or mental disability.

32. During Plaintiff's employment with Defendants and/or DOES 1-20, Plaintiff had FEHA-qualifying physical and/or mental disabilities, or medical condition that caused work restrictions that required accommodation including, but not limited to, Cancer and Bell's palsy.

33. Defendants and/or DOES 1-20 were aware that Plaintiff had qualifying physical and/or mental disabilities or conditions under FEHA that caused work restrictions that required accommodation but they failed to provide accommodation(s) and/or engage in the interactive process.

34. As a proximate result of said willful, knowing and intentional discrimination against Plaintiff, Plaintiff has lost employment earnings and benefits, past and future, according to proof.

1 35. As a proximate result of said discrimination, Plaintiff has suffered emotional distress,
2 physical and mental injuries and general damages, past and future, in a sum according to proof.

3 36. As a proximate result of said discrimination, Plaintiff has incurred, and will continue to
4 incur, attorney's fees and costs.

5 37. Defendants and/or DOES 1-20, and each of them, have committed the acts herein alleged
6 maliciously and oppressively, with the wrongful intention of injuring Plaintiff, with an improper
7 and intentional motive amounting to malice and in conscious disregard of Plaintiff's rights.
8 Accordingly, Plaintiff requests the assessment of punitive damages against Defendants, in an
9 amount appropriate to punish and make an example of them.

10 **FOURTH CAUSE OF ACTION**

11 **Violation of California Family Rights Act (CFRA), Government Code § 12945.2**

12 ***(Against All Defendants and/or DOES 1-20)***

13 38. Plaintiff hereby incorporates by reference and realleges all preceding paragraphs of the
14 complaint as if fully set forth herein.

15 39. At all times relevant hereto Government Code § 12945.2 (CFRA) was in full force and
16 binding on Defendants and/or DOES 1-20 because they employed fifty (50) or more full time or
17 part time employees within a seventy five (75) mile radius of Plaintiff's worksite. Plaintiff was
18 entitled to CFRA benefits because she had been employed for at least twelve (12) months, gave at
19 least 1250 hours of service in the year preceding Plaintiff's CFRA qualifying leave and she had a
20 serious health condition.

21 40. CFRA requires an employer to grant leave to an employee with a serious health condition
22 and to reinstate the employee to the same or a comparable job upon completion of the leave.

23 41. On or before November 4, 2010, Plaintiff required a CFRA-qualifying medical leave
24 from work due to Plaintiff's DISABILITIES. Defendants, however, violated CRFA by denying the
25 leave and/or failing to reinstate Plaintiff to the same or a comparable job upon completion of the
26 leave.

27 42. As a proximate result of said CFRA violation, Plaintiff has suffered emotional distress,
28 physical and mental injuries and general damages, past and future, in a sum according to proof.

1 43. As a proximate result of said CFRA violation, Plaintiff has incurred, and will continue to
2 incur, attorney's fees and costs.

3 44. Defendants and/or DOES 1-20, and each of them, have committed the acts herein alleged
4 maliciously and oppressively, with the wrongful intention of injuring Plaintiff, with an improper
5 and intentional motive amounting to malice and in conscious disregard of Plaintiff's rights.
6 Accordingly, Plaintiff requests the assessment of punitive damages against Defendants, in an
7 amount appropriate to punish and make an example of them.

8 FIFTH CAUSE OF ACTION

9 **Retaliation in Violation of Cal. Gov. Code §§ 12940 (h) and 12945(l)**

10 *(Against All Defendants and/or DOES 1-20)*

11 45. Plaintiff hereby incorporates by reference and realleges all preceding paragraphs of the
12 complaint as if fully stated herein.

13 46. At all times herein mentioned, FEHA and Government Code §§ 12940 (h) and 12945.2(l),
14 were in full force and effect and binding on Defendants and/or DOES 1-20. These statutes require
15 these defendants to refrain from retaliating against any employee for asserting their rights under the
16 FEHA and the CFRA. Plaintiff engaged in the protected activity of requesting a reasonable
17 accommodation for Plaintiff's disabilities pursuant to Government Code § 12940 (m), and by
18 requesting and/or using CFRA leave. Defendants retaliated against Plaintiff, in part, by refusing to
19 provide any accommodation, by failing to engage in a good faith interactive process, by subjecting
20 Plaintiff to adverse employment conditions including, but not limited to, unwarranted criticism,
21 scrutiny, reprimands and discipline of Plaintiff, reduction of hours, demotion, failing to engage in
22 the interactive process, failing to provide reasonable accommodation(s), and, ultimately,
23 terminating Plaintiff's employment.

24 47. During Plaintiff's employment, Defendants directly and through their supervisors, human
25 resources personnel and agents retaliated against Plaintiff as a result of Plaintiff exercising her or
26 her rights under FEHA and CFRA including, but not limited to, requesting a reasonable
27 accommodation for her or her disabilities, and/or requesting and/or taking CFRA leave.
28

1 48. As a proximate result of Defendants' willful, knowing and intentional retaliation against
2 Plaintiff, Plaintiff has lost employment earnings and benefits, past and future, according to proof.

3 49. As a proximate result of said retaliation, Plaintiff has suffered emotional distress, physical
4 and mental injuries and general damages, past and future, in a sum according to proof.

5 50. As a proximate result of said retaliation, Plaintiff has incurred, and will continue to incur,
6 attorney's fees and costs.

7 51. Defendants and/or DOES 1-20, and each of them, have committed the acts herein alleged
8 maliciously and oppressively, with the wrongful intention of injuring Plaintiff, with an improper
9 and intentional motive amounting to malice and in conscious disregard of Plaintiff's rights.
10 Accordingly, Plaintiff requests the assessment of punitive damages against Defendants, in an
11 amount appropriate to punish and make an example of them.

12 **SIXTH CAUSE OF ACTION**

13 **Failure to Prevent Harassment, Discrimination and Retaliation**

14 **in Violation of Government Code § 12940 (k)**

15 ***(Against All Defendants and/or DOES 1-20)***

16 52. Plaintiff hereby incorporates by reference and realleges all preceding paragraphs of the
17 complaint as if fully set forth herein.

18 53. At all times herein mentioned, Government Code §12940 (k), was in full force and effect
19 and binding on the Defendants and/or DOES 1-20. The statute required these defendants to take all
20 reasonable steps necessary to prevent unlawful discrimination, harassment and retaliation from
21 occurring.

22 54. During Plaintiff's employment with Defendants and/or DOES 1-20, Plaintiff engaged in
23 the protected activity of opposing, protesting and/or complaining of unlawful harassment,
24 discrimination and/or retaliation but the Defendants and/or DOES 1-20, through their supervisors,
25 personnel and agents, failed to take all reasonable steps to prevent further discrimination,
26 harassment and/or retaliation from occurring.

1 55. As a proximate result of Defendants' failure to prevent harassment, discrimination and
2 retaliation, Plaintiff has sustained and continues to sustain substantial losses in earnings and other
3 employment benefits.

4 56. As a proximate result of Defendants' failure to prevent harassment, discrimination and
5 retaliation, Plaintiff has suffered and continues to suffer general damages in a sum according to
6 proof.

7 57. As a proximate result of Defendants' failure to prevent harassment, discrimination and
8 retaliation, Plaintiff has incurred, and will continue to incur, attorney's fees and costs.

9 58. Defendants have committed the acts herein alleged maliciously and oppressively, with the
10 wrongful intention of injuring Plaintiff, with an improper and intentional motive amounting to
11 malice and in conscious disregard of Plaintiff's rights. Accordingly, Plaintiff requests the
12 assessment of punitive damages against Defendants, and each of them, in an amount appropriate to
13 punish and make an example of each.

14 **SEVENTH CAUSE OF ACTION**

15 **Failure to Provide Accurate Itemized Statements in Violation of Cal. Labor Code § 226**

16 ***(Against All Defendants and/or DOES 1-20)***

17 59. Plaintiff hereby incorporates by reference and realleges all preceding paragraphs of this
18 complaint as if fully set forth herein.

19 60. Labor Code §226(a) sets forth reporting requirements for employers when they pay
20 wages, as follows: "Every employer shall, semimonthly or at the time of each payment of wages,
21 furnish each of his or her employees, either as a detachable part of the check, draft, or voucher
22 paying the employee's wages, or separately when wages are paid by personal check or cash, an
23 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by
24 the employee, except for any employee whose compensation is solely based on a salary and who is
25 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
26 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
27 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all
28 deductions made on written orders of the employee may be aggregated and shown as one item, (5)

LAW OFFICE OF DONALD POTTER
776 East Green Street, Suite 210
Pasadena, California 91101

net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California."

61. Defendants failed to comply with these requirements as they failed to accurately record the name and address of the legal entity that is the employer and all applicable hourly rates in effect during the pay period.

62. Plaintiff was injured by these failures because, among other things, she was not able to identify the name and address of her employer and she was not able to readily determine the accuracy of wages owed to her.

63. As a proximate result of Defendants' conduct as alleged herein, Plaintiff requests recovery of Labor Code §226(e) penalties according to proof, as well as interest, attorney's fees and costs pursuant to Labor Code §226(e), in a sum as provided by the Labor Code and/or other statutes.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants jointly and severally as follows:

1. For nominal damages;
2. For compensatory damages;
3. For punitive damages;
4. For interest, costs of suit and attorney's fees.
5. Such other and further relief as the Court may deem proper and just.

1 DATE: February 16, 2011

LAW OFFICE OF DONALD POTTER

2
3
4 By: 

5 Donald Potter
6 Attorney for Plaintiff,
7 YOLANDA DEVORA
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Pasadena, California 91101

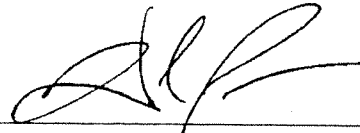
DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all matters triable to a jury.

DATE: February 16, 2011

LAW OFFICE OF DONALD POTTER

By: _____



Donald Potter
Attorney for Plaintiff,
YOLANDA DEVORA

LAW OFFICE OF DONALD POTTER
776 East Green Street, Suite 210
Pasadena, California 91101

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Donald Potter (SBN 192735) Law Office of Donald Potter 776 East Green Street, Suite 210 Pasadena, CA 91101 TELEPHONE NO: 626.744.1555 FAX NO: 626.389.0592 ATTORNEY FOR (Name): Plaintiff Yolanda Devora	FOR COURT USE ONLY FILED Superior Court of California County of Los Angeles FEB 16 2011 John A. Clarke, Executive Officer/Clerk By <u>Gina Grider</u> Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY AND ZIP CODE: Los Angeles, 90012 BRANCH NAME: Stanley Mosk Courthouse	
CASE NAME: Yolanda Devora v. The Gores Group, LLC, et al.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
CASE NUMBER: JUDGE: BC 454939 DEPT:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input checked="" type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
- b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 7
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: February 16, 2011

Donald Potter

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re. Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SHORT TITLE:

Devora v. The Gores Group, LLC

CASE NUMBER

BC 454939

**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☐ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL 7-10 ☐ HOURS/ ☒ DAYS

Item II. Select the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

Step 3: In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|---------------------------------------------------------------------------------|------------------------------------------------------------|
| 1. Class Actions must be filed in the County Courthouse, Central District. | 6. Location of property or permanently garaged vehicle. |
| 2. May be filed in Central (Other county, or no Bodily Injury/Property Damage). | 7. Location where petitioner resides. |
| 3. Location where cause of action arose. | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred. | 9. Location where one or more of the parties reside. |
| 5. Location where performance required or defendant resides. | 10. Location of Labor Commissioner Office. |

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 2., 4. 1., 2., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 2., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 2., 4.
<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress		1., 2., 3.	
<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death		1., 2., 4.	
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.

SHORT TITLE: Devora v. The Gores Group, LLC	CASE NUMBER
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A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus	2., 8.
	<input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter	2.
	<input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2.
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	<input type="checkbox"/> A6007 Construction defect	1., 2., 3.
Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment	2., 9.
	<input type="checkbox"/> A6160 Abstract of Judgment	2., 6.
	<input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations)	2., 9.
	<input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes)	2., 8.
	<input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2., 8.
	<input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 8., 9.
RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1., 2., 8.
	<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2., 8.
	<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1., 2., 8.
	<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8.
Partnership Corporation Governance(21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment	2., 3., 9.
	<input type="checkbox"/> A6123 Workplace Harassment	2., 3., 9.
	<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case	2., 3., 9.
	<input type="checkbox"/> A6190 Election Contest	2.
	<input type="checkbox"/> A6110 Petition for Change of Name	2., 7.
	<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law	2., 3., 4., 8.
	<input type="checkbox"/> A6100 Other Civil Petition	2., 9.

SHORT TITLE: Devora v. The Gores Group, LLC	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE <input checked="" type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input checked="" type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: 705 North Baldwin Park Blvd. City of Industry, CA	
CITY: City of Industry	STATE: CA	ZIP CODE: 91746	

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subds. (b), (c) and (d)).

Dated: February 16, 2011


(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form LACIV 109 (Rev. 01/07), LASC Approved 03-04.
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

EXHIBIT 2

MORGAN, LEWIS & BOCKIUS LLP
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ALEXANDER M. CHEMERS, State Bar No. 263726
300 South Grand Avenue, 22nd Floor
Los Angeles, CA 90071-3132
Tel: 213.612.2500; Fax: 213.612.2501

Attorneys for Defendant
NE OPCO INC.

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

MAR 18 2011

John A. Clarke, Executive Officer/Clerk
By A. E. LaFleur-Clayton, Deputy
A. E. LaFLEUR-CLAYTON

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

YOLANDA DEVORA, an individual,

Plaintiff,

v.

THE GORES GROUP, LLC, a Limited
Liability Company; NATIONAL
ENVELOPE CORPORATION-WEST, a
California corporation and DOES 1 to 20,
inclusive,

Defendant.

Case No. BC 454939

**DEFENDANT NE OPCO INC.'S ANSWER
TO PLAINTIFF'S COMPLAINT**

Action Filed: February 16, 2011

MORGAN, LEWIS &
BOCKIUS LLP
3000 EL CAMINO REAL
PALO ALTO, CA 94306
TEL: 650.843.4000
FAX: 650.843.4001

DB2/22325882.1

DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT

GENERAL DENIAL

Defendant NE Opco Inc. (incorrectly sued as The Gores Group, LLC) ("Defendant"), by and through its undersigned counsel, hereby responds to the unverified complaint ("Complaint") of Plaintiff Yolanda Devora ("Plaintiff") by denying generally each and every allegation contained therein, pursuant to California Code of Civil Procedure Section 431.30(d).

AFFIRMATIVE DEFENSES

Defendant also asserts the following affirmative defenses, without admitting any burden of proof at trial:

FIRST AFFIRMATE DEFENSE
(Failure to State a Cause of Action)

1. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that the Complaint fails to state facts sufficient to constitute a cause of action for which relief can be granted.

SECOND AFFIRMATE DEFENSE
(No Employment Relationship)

2. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that Plaintiff is barred from any recovery from Defendant in this action because Defendant is not Plaintiff's employer.

THIRD AFFIRMATE DEFENSE
(Statutes of Limitations)

3. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that Plaintiff's claims are barred by the applicable statutes of limitations, including, but not limited to, California Government Code Section 12965(b) and Code of Civil Procedures Section 335 *et seq.*

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FOURTH AFFIRMATE DEFENSE
(Failure to Exhaust Available Remedies)

4. As a separate defense to Plaintiff's Complaint, Defendant alleges that Plaintiff's claims are barred in whole or in part because Plaintiff failed to exhaust her administrative remedies.

FIFTH AFFIRMATE DEFENSE
(Exceeds Scope of Administrative Charges)

5. As a separate defense to Plaintiff's Complaint, Defendant alleges that Plaintiff's claims are barred in whole or in part to the extent they exceed the scope of any administrative charges she may have filed.

SIXTH AFFIRMATE DEFENSE
(Undue Hardship/Requested Accommodation Unreasonable)

6. As a separate defense to Plaintiff's Complaint, Defendant alleges that the disability accommodation(s) that Plaintiff sought, if any, were not reasonable or would have imposed an undue hardship on Defendant.

SEVENTH AFFIRMATE DEFENSE
(Defendant Engaged In Interactive Process)

7. As a separate defense to Plaintiff's Complaint, Defendant alleges that, to the extent Plaintiff made a request that would trigger an obligation for Defendant to engage in the interactive process with Plaintiff, Defendant properly discharged any such obligation.

EIGHTH AFFIRMATE DEFENSE
(Plaintiff Failed To Engage In Interactive Process)

8. As a separate defense to Plaintiff's Complaint, Defendant alleges that Plaintiff failed to engage in good faith in the interactive process with Defendant.

NINTH AFFIRMATE DEFENSE
(Health or Safety Risk)

9. As a separate defense to Plaintiff's Complaint, Defendant alleges that Plaintiff was not able to perform her essential job duties without endangering the health and safety of herself or others.

TENTH AFFIRMATE DEFENSE
(Inability to Perform Essential Job Duties)

10. As a separate defense to Plaintiff's Complaint, Defendant alleges that Plaintiff was not able to perform her essential job duties even with reasonable accommodation.

ELEVENTH AFFIRMATE DEFENSE
(Legitimate Business Purpose)

11. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that Plaintiff's claims are barred, in whole or in part, because Defendant had an honest, good faith belief that all decisions with respect to Plaintiff's employment were made by Defendant solely for legitimate, non-discriminatory, business-related reasons and were reasonably based upon the facts as Defendant understood them.

TWELFTH AFFIRMATE DEFENSE
(Prevention of Discriminatory Behavior)

12. As a separate defense to Plaintiff's Complaint, and each cause of action contained therein, Defendant alleges that Plaintiff's claims are barred in whole or in part because, at all times relevant hereto, Defendant exercised reasonable care to prevent and correct promptly any alleged unlawful conduct, that Plaintiff unreasonably failed to take advantage of the preventative and corrective opportunities provided or otherwise to avoid harm, and that reasonable use of Defendant's internal procedures and remedies would have prevented some, if not all, of Plaintiff's claimed damages from occurring.

THIRTEENTH AFFIRMATE DEFENSE
(Lack of Ill Will and Bad Faith)

13. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that at no time during the relevant time period in the Complaint did it act purposefully, knowingly, deliberately, maliciously, oppressively, intentionally, willfully, wantonly, or with any bad faith with respect to Plaintiff.

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FOURTEENTH AFFIRMATE DEFENSE
(After-Acquired Evidence)

14. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that, to the extent during the course of this litigation Defendant acquire any evidence of wrongdoing by Plaintiff, which wrongdoing would have materially affected the terms and conditions of Plaintiff's employment or would have resulted in Plaintiff either being demoted, disciplined, or terminated, such after-acquired evidence shall bar Plaintiff on liability or damages or shall reduce such claims as provided by law.

FIFTEENTH AFFIRMATE DEFENSE
(Mixed Motive)

15. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that, to the extent discrimination was a motivating factor in the employment decisions affecting Plaintiff's employment (which Defendant denies), legitimate reasons (standing alone) would have induced Defendant to make the same employment decisions.

SIXTEENTH AFFIRMATE DEFENSE
(Good Faith)

16. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that Defendant has made a good faith effort to comply with all applicable laws, and, at all relevant times, has acted reasonably, in good faith and without malice based on all relevant information, facts and circumstances known to Defendant at the time of its actions.

SEVENTEENTH AFFIRMATE DEFENSE
(Privilege and/or Justification)

17. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that Plaintiff's claims are barred in whole or in part because Defendant's actions and omissions were privileged and/or justified.

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EIGHTEENTH AFFIRMATE DEFENSE
(Excuse)

18. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that Plaintiff's claims are barred in whole or in part because Defendant's actions and/or omissions were excused.

NINETEENTH AFFIRMATE DEFENSE
(Waiver)

19. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that Plaintiff has waived each and every cause of action contained in her Complaint.

TWENTIETH AFFIRMATE DEFENSE
(Estoppel)

20. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that Plaintiff, by her own misconduct, is estopped from maintaining her action, or recovering anything from Defendant.

TWENTY-FIRST AFFIRMATE DEFENSE
(Unclean Hands)

21. As a separate defense to Plaintiff's Complaint, and to each and every cause of action contained therein, Defendant alleges that Plaintiff is barred from any recovery in this action because the injuries suffered by Plaintiff, if any, are the result of her own unclean hands.

TWENTY-SECOND AFFIRMATE DEFENSE
(Failure to Mitigate)

22. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that, if Plaintiff sustained damages by reason of the allegations in the Complaint, which allegations are denied, then Plaintiff may not recover for such damages to the extent that Plaintiff has failed to properly mitigate those damages.

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TWENTY-THIRD AFFIRMATE DEFENSE
(Avoidable Consequences)

23. As a separate defense to Plaintiff's Complaint, Plaintiff's claims are barred, in whole or in part, because at all relevant times, Defendant took reasonable steps to prevent and correct workplace discrimination, harassment or retaliation. Plaintiff unreasonably failed to use the preventative and corrective measures that Defendant provided, and the reasonable use of these measures would have avoided any damages allegedly suffered by Plaintiff.

TWENTY-FOURTH AFFIRMATE DEFENSE
(Exclusive Remedy)

24. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that, if Plaintiff sustained damages by reason of the allegations in the Complaint, which allegations are denied, Plaintiff's exclusive remedy for such damages is governed by the California Workers' Compensation statutes, including but not limited to California Labor Code Section 3200 *et seq.*

TWENTY-FIFTH AFFIRMATE DEFENSE
(Punitive Damages Not Available)

25. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that the Complaint fails to state facts sufficient to constitute a cause of action upon which punitive damages may be sought pursuant to Civil Code Section 3294 or on any other basis.

TWENTY-SIXTH AFFIRMATE DEFENSE
(Constitutional Limit on Punitive Damages)

26. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that Plaintiff's claims for punitive damages, penalties, or for any form of damage other than compensatory damages, are barred by the Contract Clause (Article I, Section 10, Clause 1), the Due Process Clause (Fifth Amendment, Fourteenth Amendment, Section 1), and the Excessive Fines Clause (Eighth Amendment) of the United States Constitution and the corresponding provisions of the California Constitution.

TWENTY-SEVENTH AFFIRMATE DEFENSE
(Offset)

27. As a separate defense to Plaintiff's Complaint, and to each and every cause of action therein, Defendant alleges that if Plaintiff has sustained any damages, which are specifically denied, Defendant are entitled to offset all amounts received by Plaintiff since the termination of her employment against any lost income sought by Plaintiff as damages in this action.

TWENTY-EIGHTH AFFIRMATE DEFENSE
(Additional Affirmative Defenses)

28. Defendant presently has insufficient knowledge and/or information on which to form a belief as to whether it may have additional, as yet unstated, affirmative defenses available. Defendant reserve the right to assert additional defenses if discovery indicates that such additional affirmative defenses would be appropriate.

PRAYER

WHEREFORE, Defendant pray for judgment as follows:

1. That Plaintiff take nothing by this action;
2. That judgment be entered in favor of Defendant and against Plaintiff;
3. That Defendant be awarded the costs of suit herein incurred;
4. That Defendant be awarded its attorneys' fees according to proof; and
5. That the Court award Defendant such other and further relief as the Court may deem proper.

Dated: March 18, 2011

MORGAN, LEWIS & BOCKIUS LLP

By Alexander Chemers

Alexander Chemers
Attorneys for Defendant
NE OPCO INC.

PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 300 South Grand Avenue, Twenty-Second Floor, Los Angeles, California 90071-3132. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service.

On March 18, 2011, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

DEFENDANT NE OPCO INC.'S ANSWER TO PLAINTIFF'S COMPLAINT


in a sealed envelope, postage fully paid, addressed as follows:

Donald Potter, Esq
LAW OFFICES OF DONALD POTTER
776 East Green Street, Suite 210
Pasadena, CA 91101
(626) 744-1555

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

Executed on March 18, 2011, at Los Angeles, California.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.



Adriana Reyes

PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 300 South Grand Avenue, Twenty-Second Floor, Los Angeles, California 90071-3132. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service.

On March 21, 2011, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

NOTICE OF REMOVAL

in a sealed envelope, postage fully paid, addressed as follows:

Donald Potter, Esq
LAW OFFICES OF DONALD POTTER
776 East Green Street, Suite 210
Pasadena, CA 91101
(626) 744-1555

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

Executed on March 21, 2011, at Los Angeles, California.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.


Debi Tinsley

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge George H. Wu and the assigned discovery Magistrate Judge is Carla Woehrle.

The case number on all documents filed with the Court should read as follows:

CV11- 2382 GW (CWx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)

YOLANDA DEVORA

DEFENDANTS

THE GORES GROUP, LLC, a Limited Liability Company;
 NATIONAL ENVELOPE CORPORATION-WEST, a
 California corporation and DOES 1 to 20, inclusive

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Attorneys (If Known)

MELINDA S. RIECHERT (SBN 065504)
 MORGAN, LEWIS & BOCKIUS LLP
 3000 El Camino Real, Suite 700
 Palo Alto, CA 94306-2122
 Attorneys for NE OPCO, Inc. (erroneously
 sued as The Gores Group, LLC)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
 (Place an X in one box for plaintiff and one for defendant.)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|---------------------------------------|----------------------------|---------------------------------------------------------------|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No

☒ **MONEY DEMANDED IN COMPLAINT: \$ Exceeds \$75,000**

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Diversity jurisdiction pursuant to 28 U.S.C. Section 1332 over claims for disability discrimination, failure to accommodate and interact, CFRA violation, retaliation, failure to prevent, and failure to provide statements.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number: **CV11-02382**

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETVIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply)
- ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Delaware and Texas

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Alexander Chernovsk

Date March 21, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 300 South Grand Avenue, Twenty-Second Floor, Los Angeles, California 90071-3132. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service.

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CIVIL COVER SHEET

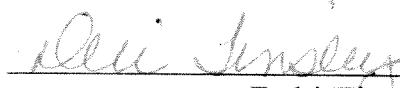
in a sealed envelope, postage fully paid, addressed as follows:

Donald Potter, Esq
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776 East Green Street, Suite 210
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Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

Executed on March 21, 2011, at Los Angeles, California.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.



Debi Tinsley